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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/021,132	10/29/2001	Donald E. Bobo JR.	CVG-5637	2468

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Debra D. Condino
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Irvine, CA 92614

EXAMINER

SHAY, DAVID M

ART UNIT	PAPER NUMBER
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12

3739

DATE MAILED: 07/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/021,132

Applicant(s)

Bohr

Examiner

J-Sky

Group Art Unit

3739

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on March 19, 2003.
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-27 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-27 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1 7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 8211
- ☒ Notice of References Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 11, 12, 18, 23, 26 and 27 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Muller.

See Figures 3A-3C and column 5, line 56- column 8 line 48 the infusion device is the barb also conical element 21 can perform a sealing function.

Claims 1-6, 9-12, 18, 23, 26 and 27 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Murphy-Chutorian et al.

See figures 2-5 and 8 and column 4, line 47 to column 5, line 12; and column 15, line 38 to column 22, line 16.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 7, 8, and 12-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Muller in combination with Kalloo et al. Muller et al teach a device such as claimed except for the balloons (note other structures predicated on the balloons e.g. inflation lumen are also not necessarily taught thereby). Kalloo et al teach the use of a dual balloon stabilizing means to aid in the placement of surgical device. It would have been obvious to the artisan of ordinary skill to

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employ the balloons of Kalloo et al in the device of Muller, since this would enable the stabilization thereof with respect to e.g. the chest wall, thus producing a device such as claimed.

Claims 18-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Muller in combination with Kalloo et al. The teachings of Muller and Kalloo et al and the motivations for combinations are essentially those already set forth regarding claims 1, 7, 8, and 12-17 above. Thus it would have been obvious to the artisan of ordinary skill to combine these old and well known teachings and to employ a plurality of barbs, since this is merely the provision of multiple structures for multiplied effect and is notorious in the art, thus producing a method such as claimed.

Any inquiry concerning this communication should be directed to David Shay at telephone number 308-2215.

Shay/DL

July 15, 2003



DAVID M. SHAY
PRIMARY EXAMINER
GROUP 330